

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HANK YARBROUGH,

Petitioner,

v.

Case No. 14-cv-10460-DT

MICHAEL EAGEN,

Respondent.

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

This matter is before the court on Petitioner Hank Yarbrough's Petition for Writ of Habeas Corpus [Dkt #1] and Respondent's Motion to Dismiss for Lack of Exhaustion. [Dkt #9]. The case was referred to United States Magistrate Judge Paul J. Komives pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72.1(b)(2).

The magistrate judge issued his report on November 17, 2014, recommending that this court deny Petitioner's Petition for Writ of Habeas Corpus, Deny a Certificate of Appealability and deny as moot the Motion to Dismiss for Lack of Exhaustion. No objections have been filed pursuant to 28 U.S.C. § 636(b)(1)(C), thus further appeal rights are waived. In addition, the failure to object to the magistrate judge's report releases the court from its duty to review independently the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Therefore,

IT IS ORDERED that, for the reasons set forth in the Magistrate Judge's Report and Recommendation, the Petitioner's Application for Writ of Habeas Corpus [Dkt#1] is

DENIED. The Respondent's Motion to Dismiss for Lack of Exhaustion [Dkt#9] is
DENIED AS MOOT and a Certificate of Appealability is **DENIED.**

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: January 25, 2015

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, January 25, 2015, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522